

REMARKS

In the amendments above, Claims 4, 6, 9, 10, 13-18 and 20-24 have been amended, and new Claims 26, 27 have been introduced, to more particularly point out and distinctly claim Applicant's invention.

Rejections under 35 U.S.C. 112

Claims 4, 6, 9, 10, 13, 14, 15-18 and 20-22 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

Regarding rejection of claim 4, the Examiner refers to MPEP § 2173.05(d). Applicant disagrees with the Examiner on the applicability of the referred paragraph of the Manual to claim 4 of the current application. First, MPEP § 2173.05(d) refers to a few exemplary cases in which wordings like "for example" or "such as" has been considered leading to confusion over the intended scope of a claim, yet it is stressed that those cases referred to are nothing but examples and cannot be considered to be an instruction to be applied as a *per se* rule. Second, the phrase "like" has not been used in claim 4 in the meaning of "for example" as discussed in MPEP § 2173.05(d). However, the Examiner's attention is directed to the amendment of claim 4 above, which is believed to overcome the rejection.

Regarding claim 10, it is believed that the rejection should be withdrawn as there is no term "its" in claim 10.

Regarding claims 6, 9, 13-15, 17, 18, 20 and 21 the Examiner's attention is directed to the amendments above, which are believed to overcome the rejections.

Regarding claims 16 and 22 the Examiner has not specified any reasons for the rejections. However, the Examiner's attention is directed to the amendments above, which are believed to overcome the rejections.

Rejections under 35 U.S.C. 103

Claims 1-6, 10 and 13-17 are rejected under 35 U.S.C. 103(a) as obvious over Bergersen, U.S. Patent No. 4,784,605, in view of Cathcart et al. Claims 7-9 and 18-23 are also rejected under 35 U.S.C. 103(a) as obvious over Bergersen, U.S. Patent No. 4,784,605, in view of Cathcart et al., and in further view of Bergersen, U.S. Patent No. 5,645,420.

The Examiner indicated that Cathcart teaches a mouth protector including a lower wing reaching the immediate proximity of the mouth cavity, extending lower than the corresponding outer wall. In this respect, the Examiner refers to Figure 9 of Cathcart.

The currently claimed invention is a device used in dentistry, not a device used in sports. Cathcart discloses no intention or goal that his mouth protector could be used for correcting the bite of an individual. Applicants maintain that Figure 9 of Carthcart discloses a wall 7, 8 extending upwards, not downwards to reach the immediate proximity of the base of the mouth cavity as claimed in the current application. This is inapposite to Applicants' invention. By modifying Bergersen as speculated by the Examiner "to provide full protection of teeth of a user" by adapting the teachings of Cathcart therein, one would not arrive at the current invention but an appliance having upper flanges 16, 18 extending upwards above the height of contour of the teeth supporting bony tissue (See Cathcart, col 2 line 35) .

Further, Applicants maintain that orthodontics is a very "precise science" and as far as occlusion guide appliances are concerned, even seemingly minor changes in their construction may have dramatic effects on their function. As the prior art includes a large number of different kinds of occlusion guide appliances, it would not be obvious to one man skilled in this art to select various features in combinations to arrive at the present invention. The prior art provides no guidance or suggestion which combination could be made.

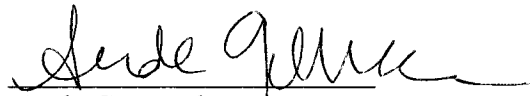
Accordingly, the pending claims as amended are not obvious over any combination of the cited prior art. Applicants respectfully request that the Examiner reconsider and withdraw this ground of rejection.

Should the claims herein be allowable but for a minor matter that could be the subject of either an Examiner's Amendment or a supplemental submission, applicant would appreciate the Examiner's contacting applicant's undersigned attorney.

Reconsideration and allowance of the claims herein are respectfully requested.

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Respectfully submitted,


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